



Bulletin

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December 1998

FPPC Capitol Forum Draws Ideas, Comment On PRA Successes, Failures

The Fair Political Practices Commission conducted an open forum at the Capitol December 3 to hear public comment about the successes and failures of the Political Reform Act since its adoption by the voters 24 years ago.

Chairman James M. Hall said the Commission was pleased with the quantity and quality of comments. Commissioners and a large audience heard political practitioners, journalists, academics, and political reformers assess campaign contribution and spending rules and conflict of interest requirements. Several ideas were offered to modify the Political Reform Act and the FPPC's organization and responsibilities.

"The presentations will help identify key issues for the McPherson Commission during 1999," said Hall. "The newly-created Commission created by SB 1737 will study the effect of the Act on core political speech protected by the First Amendment and on candidates for public office, campaign committees and voters, including the effect on communications to and from elected and other public officials by members of the public and lobbyists.

"We believe the McPherson Commission can have a positive influence in support of our goal of greater political involvement by California citizens," Hall added.

Stressing the underlying purpose of the Political Reform Act, Chairman Hall opened the forum with a reading of the FPPC Mission Statement:

"The Mission of the Fair Political Practices Commission is to promote the integrity of representative state and local government in California through fair, impartial interpretation and enforcement of political campaign, lobbying, and conflict of interest laws."

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Happy Holidays and best wishes for the new year!

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California Fair Political Practices Commission

James M. Hall, Chairman
William Deaver, Commissioner
James Porter, Commissioner
Kathleen Makel, Commissioner
Carol Scott, Commissioner

Commission Meetings

Meetings are regularly scheduled for the first Thursday of each month at 10:00 a.m. in the Commission Hearing Room, 428 J Street, 8th Floor, Sacramento. Please contact the Commission to confirm meeting dates.

Pursuant to Section 11125 of the Bagley-Keene Open Meeting Act, the FPPC is required to give notice of its meetings ten (10) days in advance of the meeting. In order to allow time for inclusion in the meeting agenda and reproduction, all Stipulation, Order, and Decision materials must be received by the FPPC no later than three (3) business days prior to the ten day notice date.

To receive a copy of the Commission meeting agenda (free) or a copy of the full meeting packet (\$10/month or \$100/year) contact the Commission at (916) 322-5660. The agenda and packet are also available through the Commission's Fax-On-Demand service at 1-888-622-1151, index number 7000.

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Secretary of State Bill Jones addressed the Commission and underscored the importance of the McPherson Commission study and the potential impact of electronic filing on disclosure laws. He said that because of its complexity, the PRA does not now lend itself well to electronic filing, which he believes is "the best means to achieve full, complete and timely disclosure — the best form of political reform."

Jones applauded the FPPC work on form simplification and design that will accommodate electronic disclosure applications.

Other speakers during the afternoon session at the State Capitol included political reform attorneys Chip Nielsen (Nielsen Merksamer, Parrinello, Mueller and Naylor), Dana Reed (Reed and Davidson) and Charles Bell (Bell McAndrews and Hiltachk); journalist Bud Lembke of Political Pulse; and Kim Alexander of the California Voter Foundation.

Political reform activists who participated include Jim Knox of Common Cause; Dr. Craig Holman of the Center for Governmental Studies; and Tony Miller, co-author of Proposition 208. Other speakers included Ray LaRaja of the University of California at Berkeley's Institute for Governmental Studies; Jim Esser, Chronicle Broadcasting Co. and KRON-TV; and Tony Alperin, Los Angeles City Ethics Commission.

Nielsen claimed that the Act has become too complicated to understand, even for attorneys and especially for public officials and candidates, most who must hire accountants and attorneys in order to comply with its requirements. He added that the FPPC has done a "decent job" of making the Act more user-friendly in areas such as lobbying, statements of economic interests, campaign disclosure and revolving door provisions. He said more work must be done with provisions governing recipient committees, major donors, conflicts of interest, gift values, revolving door issues, multi-agency cooperation and response time by FPPC staff. He urged the

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Commission to find ways to solve a sudden increase in filings under the "private attorney general" provision of the Act and its unworkable 40-day demand constraints. Nielsen also pointed to inconsistency in charging violations and the need for written guidelines to define the differences between PRA infractions, violations and crimes. He applauded the FPPC's work to make information more understandable and readily available and simplification of disclosure forms.

Common Cause's Knox praised the Commission for its efforts to implement and defend Proposition 208 in the courts. He asked that the Commission work with the Secretary of State's office and other filing officers to assure that all required information is disclosed, and charged that the current level of compliance with disclosure detail is "shoddy." While several speakers questioned the value of major donor reports, Knox said disclosure by contributors of \$10,000 or more is "not a frivolous enterprise," and a citizen "should not have to examine tons of reports" to trace campaign dollars.

Knox also voiced concern about the intent of the McPherson Commission and said that his hope was that it "was not a cover for a legislative attempt to weaken the Act." He then reminded the audience that "while it is probably important to review the Act, it is also important to not lose sight of the PRA goals."

To stress the point, Knox then read the PRA preamble: "The Political Reform Act assures that State and local government serves all citizens equally, without regard to status or wealth; Public officials perform their duties impartially, without bias because of personal financial interest or the interests of financial supporters; Public officials disclose income and assets that could be affected by official actions and disqualify themselves from participating in decisions when they have conflicts of interest; Election campaign receipts and expenditures are fully and truthfully disclosed so voters are informed and improper practices are inhibited; No laws or practices favor incumbents; The activity of those who lobby the state legislature is

regulated and finances disclosed to prevent improper influence on public officials; and public officials and private citizens are given the means to vigorously enforce political reforms."

Knox commended the recently revised FPPC web site and asked for continued work to add to its communications capability, including the availability of advice letters.

Chairman Hall said that if plans go according to schedule, all FPPC advice letters will be available through the web site in early 1999. He also thanked Knox for reciting the PRA goals.

Journalist Bud Lembke urged the Commission to use its "bully pulpit" as a way to find new ideas for reforms and to advocate more participation in the process by average citizens. He believes that news stories about campaign fund-raising are simply not important to newspapers and television. He suggested that public financing may be the ultimate solution. Commissioner Bill Deaver observed that "you would have to convince the public that public financing is a good idea."

Attorney Charles Bell said he believes that "it is time to reform political reform." In his opinion, "we must deregulate and privatize the process because after three liberal reforms, it only shows that government-based solutions are ineffective." He said that "government in general had become more complicated and intrusive in our lives and people who need to petition government are those who want protection from others." Bell called for "a fundamental pruning of reform laws" and said that "public financing is not acceptable to the public." He also believes that a division of power is necessary for the FPPC, because "its most fundamental problem is that it is a self-contained entity that performs the function of judge, jury and prosecutor," and that "too much power lies in the Commission as an enforcement agency."

Dr. Craig Holman said that California has "the best disclosure laws on the books." He believes that Proposition 208 and public

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financing are important solutions to public perception of political corruption. He countered other speaker views about complexity of the law and the need for deregulation by observing that "people work hard to get around finance proposals and I wish we could get them to do the right thing, but to stop people from exploiting loopholes we must necessarily have more complication, more laws. Public financing will not be unpopular, but it will be complicated because we need something more than disclosure. We must reduce the significance of money in campaigns." Holman also said that California must impose spending limits to reduce the time that candidates spend on raising contributions.

Dana Reed, an attorney who is a member of the California Transportation Commission, outlined the complexity of state highway contracts in their effect on the financial interests of decision makers. Reed suggested putting the burden of showing financial links on the applicants for projects, one solution to a problem that affects many government agencies.

Kim Alexander of the California Voter Foundation gave an overview of the rapid progress of electronic filing. She said that people who subvert disclosure laws "are not going to go away, so California must do two things — first, expose campaign dollars and second, reduce the need for money in campaigns." Alexander said that "one solution is to increase the means to get messages to voters in an affordable way." She proposed that the FPPC, Secretary of State and California Voter Foundation work together to develop "shareware" disclosure software that will be "browsable and searchable."

Jim Esser of KRON-TV said that the ballot initiative process "is in sorry straits." Esser said that spending on advertising now runs from \$2.7 million to \$29 million for each ballot measure. Although most stations have a process to weed out deceptive advertising, he senses the need for reform that would prevent "faceless, nameless ballot measure committees who disappear after the election, unlike candidates who must continue to live with their advertising."

Chairman Hall urged Esser to consider giving viewers both sides of the arguments over ballot measures, "providing a service to voters and something useful to the media."

Ray LaRaja of UC Berkeley outlined the findings of a Spring 1998 conference on political reform. "There is a perception that the FPPC is inconsistent in its enforcement of campaign finance rules, that it tends to go after the little guy, that it suffers from excessive staff turnover, that heavy fines are not a deterrent, and there is confusion about third party (private attorney general) enforcement actions." La Raja speculated that the advent of electronic filing and resulting complaints for disclosure violations may overwhelm the FPPC capacity for investigation and enforcement unless the Commission prepares itself to meet the problem.

Commissioners questioned a recent article by La Raja that criticized Commission members for a lack of political experience and suggested members should be required to intern with a political campaign. La Raja said his article reflected the views of participants in the UC conference. Commissioner Bill Deaver rejected the notion that the FPPC pursues smaller cases and ignores larger violators, pointing out that "the FPPC enforcement effort is driven by complaints from the public, something we don't control."

Tony Alperin of the Los Angeles City Ethics Commission suggested that the FPPC look to his city to see the demonstrated effectiveness of contribution limits, spending limits and public financing. "Los Angeles' contribution limits are at an amount that reduces influence of money on politics, but allows candidates to still compete effectively for office," said Alperin. "It has worked so well that we have more viable candidates competing than before the reforms. The record shows that campaigns have become more competitive." Alperin explained that the

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system discourages wealthy candidates from throwing their money into the campaign because spending beyond the limits releases opponents from limits on contributions and spending and yet they still receive public funding while the limit-breaking, wealthy candidate does not.

Political reform activist Tony Miller defended the importance of private attorney general actions under the PRA, especially in cases of late or non-disclosure by major donors and late contribution reports. "Electronic filing and searchable databases will diminish the need for these reports, but we are not yet there," said Miller. "The FPPC cannot fully enforce these rules because it lacks adequate funding and staff. If the Commission doesn't have the resources, then I will enforce the law." In response to a question from Commissioner Jim Porter, Miller said he supports giving the enforcement division more time to act (either 120 or 180 days instead of the current total of 80 days) following a complaint and demand for enforcement action.

In closing remarks, Commissioner Bill Deaver thanked participants and asked for support to give the FPPC agency adequate funding to carry out its mission. "We need more money from the legislature. We have great enforcement and technical assistance staff but they are really stretched," said Deaver. "Many of our problems will go away when all reporting is posted on the Internet, but in the meantime, we must prioritize what we do to carry out the law."

Commission Chairman James Hall said that "the essence of what we heard today is carried in the first provision of the Act that state and local government must serve all people equally without regard for status or wealth. We must find ways to get to the grass roots without more complication of the process or the law.

"We need to simplify the law and measure the output. We must seek ways to involve the public in the public process. We are on the verge of a new era of disclosure and public involvement because of new technology and the ability to access information. Politics must be free. We cannot afford further restriction — because after

all, that is what the First Amendment is all about," said Hall as the forum came to a close.

Persons who wish to comment about the Political Reform Act or its services may write the FPPC at 428 J Street, Suite 450, Sacramento, CA 95814 or use the "Feedback" feature of the FPPC website, www.fppc.ca.gov.

Information about the McPherson Commission may be found in the October 1998 edition of the FPPC Bulletin (page four), available in the Library section of the FPPC website.

1998 Enforcement Actions Set New Mark

The FPPC imposed administrative fines in 97 cases and won civil judgements in seven others during 1998, the highest since 1996, when 56 cases were decided.

The Commission levied total fines of \$1,712,740, including \$95,490 in civil judgements, besting the previous record of \$1,698,050 in 1995.

The year's enforcement activity included 64 cases at the local level and 40 at the state level. Campaign violations accounted for 86 cases, conflicts of interest, 16; gift violations, one; and lobbying rules, one.

A case against seven campaign committees linked to the Bicycle Club, a Southern California card room operation, led to a fine of \$412,000 in January, the year's largest and the fourth largest in the FPPC's 23-year history.

Federal Court of Appeals Hears Argument On Proposition 208

On Tuesday morning, December 8, 1998, the parties to the Proposition 208 lawsuit gathered in the newly restored courtroom of the Ninth Circuit Court of Appeals in San Francisco. The lights went out almost immediately, throwing the city into chaos and fueling speculation that the hearing might be delayed into the new year. The court's emergency generator coughed into action and restored hope that the day's business might go forward as planned. At nine o'clock proceedings got underway, by natural light and the welcome ventilation from open windows.

Proposition 208, a comprehensive campaign reform initiative passed in the 1996 general election, was struck down by U.S. District Judge Lawrence K. Karlton last January, following a challenge by the major political parties and a broad array of persons and organizations opposed to the changes instituted by the measure. Both the FPPC and proponents of the initiative were on the losing end of Judge Karlton's injunction, and appealed to the Ninth Circuit. Judges Stephen R. Reinhardt, John T. Noonan, and Michael Daly Hawkins presided over the hearing, and will ultimately decide whether Judge Karlton was right to bar enforcement of the new law.

Recognizing both the complexity of the legal issues and the gravity of a dispute involving the people's right to govern themselves, the court permitted unusually extensive argument. As attorneys for both sides presented their cases, the three Judges made it clear through active and acute questioning that each of them had already invested great effort in mastering hundreds of pages of briefing, along with the documentary record of a lengthy trial.

The proponents of Proposition 208, represented by Los Angeles attorney Bradley S. Phillips, and the FPPC, represented by Larry Woodlock, began their attack on the lower court ruling by pointing to the absence of evidence in the record supporting the court's conclusions on the measure's contribution limits. Judge Karlton

had decided that the contribution limits were too low to permit effective advocacy on behalf of political candidates but, according to Phillips and Woodlock, the only evidence presented on that question went the other way.

The problem of evidence became the focus of argument for the rest of the hearing. James Bopp, an Indiana attorney who participates in litigation against campaign reform measures across the nation, started off plaintiffs' case. Bopp argued that, as a general matter, contribution limits do no good and much harm, and should therefore be viewed with suspicion by the courts. Those who would defend such limits, according to Bopp, should assume the burden of proving the need for specific limits in every case. Joseph Remcho, representing the majority of the plaintiffs, steered a more moderate course and argued that plaintiffs had presented enough evidence at trial to support the injunction.

The Court of Appeals may take several months to issue its decision. The court will most likely remand the matter to Judge Karlton with instructions for further proceedings. At the same time, the Ninth Circuit will either end the injunction of Proposition 208, or leave the injunction in place while Judge Karlton evaluates those portions of the measure not treated in his earlier opinion. Alternatively, the federal court might invoke the aid of the California Supreme Court, leaving the injunction in effect while the Supreme Court determines whether critical parts of the measure can be judicially revised in a manner that would save all or some of the initiative.

FPPC Staff Proposes Streamlined Campaign Reporting

During the Commission's December 3 meeting, FPPC staff counsel Hyla Wagner reviewed an array of proposed changes to simplify campaign disclosure forms, rules and filing schedules.

The proposal, which could dramatically reduce many disclosure headaches for campaign committees, was also thoroughly dissected at an "Interested Persons" meeting December 9th. Both reviews produced enthusiastic praise, while some areas of the proposal will be modified before final Commission approval. Legislative changes will be needed to implement some of the measures.

Wagner said that the proposals are designed to simplify compliance with the PRA while furthering the purposes of the Act by maintaining or improving disclosure.

The proposals grew out of two public meetings about changes to simplify campaign reporting, held in mid-1998 by General Counsel Steve Churchwell, Technical Assistance chief Carla Wardlow and Commissioners Kathleen Makel and Carol Scott. The meetings produced numerous suggestions from campaign treasurers, practitioners, members of the reform community, and representatives of the Secretary of State's office.

Many of the changes are in preparation for the rapidly approaching requirement for electronic filing of contributor information for larger campaigns. Public access to information about campaign contributions and spending through the Internet will be enhanced by the revisions.

Many other changes are patterned after Federal Election Commission reporting forms and procedures.

The FPPC's objectives in the proposal are to prune out duplicative reporting and standardize easily-remembered reporting deadlines; revise disclosure forms to work well with electronic filing; and improve public disclosure of campaign finances.

The most fundamental change is moving to a quarterly filing schedule with one pre-election report instead of the current two. Standardizing reporting deadlines under a quarterly filing schedule will make it much easier for candidates to know when to file. It will eliminate "special odd year campaign reports" and the confusion in determining which committees must file them.

Among the proposed changes:

- Eliminate or at least simplify Form 501 (Statement of Candidacy);
- Eliminate Form 502 (Campaign Bank Account Statement) and require appropriate bank account information to be included in Form 410 (Statement of Organization) instead;
- Change Form 410 (Statement of Organization) to include bank and termination information.
- Change termination of candidacy procedures and filings (five filings are now required) by providing for a termination designation on closing statement and on Form 410 (Statement of Organization);
- Eliminate Form 405 (Amendment) and include an amendment designation on the cover sheet of reporting forms that may be amended;
- Allow an assistant treasurer to sign reports;
- Consider eliminating the one-bank account rule;
- Require that summary page expenditure totals include non-monetary contribution amounts;
- Require that zip codes for contributors be included on Schedule A;
- Require coding of contributors by type, such as business, union, individual, political parties, etc.

Streamlined Campaign Reporting...

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- Change method of reporting loans, requiring disclosure statements to include outstanding loans while eliminating the annual schedule;
- Change the requirement that lending institutions be reported as "lender" when candidates use a personal line of credit to make a loan to his or her campaign;
- Consider requiring annual reporting of non-liquid assets held by a campaign;
- Eliminate Schedule D (Enforceable Promises);
- Revise expenditure codes to make them more meaningful;
- Require Schedules E and F to include dates of expenditures or accruals;
- Change accrued expenses disclosure to ease reporting and facilitate tracking of status of particular debt;
- Consider increasing reporting threshold for subvendor payments from \$100 to \$500 or excluding from reporting some categories of subvendor payments altogether;
- Eliminate the requirement that information regarding individual petition signature gatherers who receive \$100 or more in compensation be reported;
- Eliminate the "travel log" requirement;
- Semi-Annual Filings—Require quarterly filing of campaign statements with one pre-election report due 12 days before the election, while increasing the late contribution period from 16 to 21 days; semi-annual filings become quarterly;
- Pre-election Filings—With quarterly filings, the second pre-election statement is eliminated and treasurers will have 10 days, rather than 5, to prepare it;
- Eliminate Form 495 (Supplemental Pre-election Campaign Statements) but increase the requirement to file late contribution reports; require general purpose committees making late contributions in connection with an election to file late contribution reports listing any contributions they have made or received over \$1,000 since their last quarterly report;
- Late Contribution Reports—Consider requiring that late contribution reports include total cumulative contributions; consider making late contribution reports 48 hour reports instead of 24 hour reports except just before an election;
- Quarterly filings would replace the Special Odd-year Campaign Report;
- Increase threshold for using Form 470 (Short Form) from \$1,000 to \$2,000;
- Eliminate the Form 470 Supplement;
- Require quarterly filings by "Independent Expenditure" and "Major Donor" committees;
- Supplemental Independent Expenditure Report--eliminate Form 465 but require late independent expenditure reports to be filed instead;
- Form 496—Late Independent Expenditure Reports—increase the use of late independent expenditure reports in place of supplemental independent expenditure reports;
- Combined Statements—Automatically waive a quarterly report if a pre-election report is due (because of a special election); permit treasurers to avoid a detailed quarterly report by filing only a cover sheet indicating that the committee has not had \$1,000 or more in contributions or independent expenditures since the last disclosure statement.
- Eliminate some Forms—Supplemental Pre-election Report (Form 495) and the Supplemental Independent Expenditure Report (Form 465), and increase the use of "late period reports" instead.

Copies of the proposal are available from the FPPC at 426 J Street, Suite 800, Sacramento, CA 95814, or by dialing fax-on-demand at 1-888-622-1151, index 7012.

Ethics Orientation for State Officials

Ethics training is on tap for up to 3,000 high-level state government officials in 1999. Newly-chaptered legislation brings previously exempt officials under the same ethics training rules that have affected legislators, legislative employees and lobbyists for several years.

The Joint Committee on Legislative Ethics authored Assembly Bill 2179, which requires all state agencies to conduct semi-annual orientation courses that certain state officials and employees must attend once every two years. The sessions will teach relevant ethics statutes and regulations that govern the official conduct of state officials. The measure was signed by the Governor August 24, 1998.

The Fair Political Practices Commission is working with the Office of the Attorney General and the Department of Personnel Administration to design the curriculum and course schedule.

Several sessions will be presented by FPPC General Counsel Steve Churchwell and Deputy Attorney General Ted Prim. The schedule will be announced in early 1999.

The course eventually will be available in three formats: regularly scheduled live presentations, an interactive internet presentation, and a videotape that will be available to state agency and department training officers soon after the initial presentations.

While agencies may elect to add to the curriculum to accommodate specific laws that apply to their organization, the FPPC and AG's office are cooperating in preparing course materials and presentations to facilitate dissemination of consistent information about the approximately eight ethics laws that apply to state officials.

Leaving State Service?

When a new Governor takes office, traditionally there is substantial turn-over in the higher ranking positions in state agencies. If you are leaving your state position to work for a private entity, you must be aware of the following post-employment restrictions:

- While you are still working for your state agency, there are restrictions on your current decision-making affecting future employers.
- After you leave your state position, there is a one-year restriction on your future communications with your former agency.
- There is a lifetime ban on your participation in certain types of proceedings on which you worked while with your former agency.

Commonly known as "revolving door" provisions, violation of these laws could result in you personally being assessed substantial fines. Please contact the Commission at (916) 322-5660 if you have questions about how these rules affect your future employment.

Use of Public Funds for Candidates. . . *Advice Revision*

At its monthly meeting on November 5, 1998, the Commission revised its interpretation of Government Code Section 85300. Section 85300 states: "No public officer shall expend and no candidate shall accept any public moneys for the purpose of seeking elective office." The Commission, in advice letters, had interpreted the statute to prohibit the use of public resources for campaign activities. At the meeting, the Commission adopted a narrower construction, which is set forth in amended Regulation 18530. Amended Regulation 18530 provides that Section 85300 only prohibits the payment of public moneys for the public financing of elections, such as a matching funds program.

The Commission's decision was based on the legislative history of Section 85300. Proposition 73 added Section 85300 to the Political Reform Act. Proposition 73 was one of two competing campaign finance reform measures on the ballot in the June 1988 election. The other reform proposal, Proposition 68, provided for a matching funds public financing system. The language in the ballot arguments for Proposition 73 suggests that Section 85300 operated as a rebuttal to the public financing scheme proposed in Proposition 68. The title of Proposition 73 was "Campaign Finance Reform Without Taxpayer Financing." Pursuant to *Johnson v. Bradley* (1992) 4 Cal.4th 389, Regulation 18530 exempts charter cities and counties from the prohibition in Section 85300.

Although the revised interpretation of Section 85300 eliminates from the section an unwarranted meaning, a governmental agency might fall within the definition of a committee under the Act if it made contributions to a candidate, thereby becoming subject to campaign reporting obligations.

Other laws outside of the Political Reform Act regulate the misuse of public resources, such as Penal Code Section 424, Government Code Sections 3207 and 8314, Education Code Section 7054 et seq. and *Stanson v. Mott* (1976) 17 Cal.3d 206. Contact your city attorney, county counsel, district attorney or the Attorney General regarding these provisions.

Disqualification Directions

Susan Smith is a City Councilmember on the Bigtown City Council. Susan must disqualify herself from voting on a zoning project on the city council agenda because she has received \$250 in income during the last 12 months from Big Trees Lumber Company, the project applicant. To comply with the Act's disqualification procedures, Susan must disclose the specific financial interest that causes the disqualification during the council meeting for the city's official record.

Disclosure of the financial interest prompting disqualification must be as specific as the disclosure on an official's Statement of Economic Interests (Form 700). An example of acceptable disclosure is: "I disqualify myself from this item because it is reasonably foreseeable that Big Trees Lumber Company, which was a source of income to me, will be materially affected by this decision." Alternatively, an example of insufficient disclosure is: "Pursuant to the Political Reform Act, I disqualify myself from this item because it is reasonably foreseeable that a source of income to me will be materially affected by this decision." In the second example, the economic interest that was the basis for the conflict of interest was not identified.

Additionally, specific disclosure is required each time an official is required to disqualify on the basis of a financial conflict. For example, if a project requires more than one decision, disclosure is required for each decision.

Gift Limit Increases

Effective January 1, 1999, the gift limit for public officials will increase from \$290 to \$300 from a single source per calendar year. This gift limit will remain in effect until December 31, 2000.

Year 2000 Primary

The June 2000 Election Primary has been moved forward to March 7, 2000. Watch future issues of the *Bulletin* for updates about legislation affecting campaign filing requirements for this election.

Save Your 1998 Act

The 1999 version of the Political Reform Act will be available on the Commission's website and through Westlaw legal research. Because of pending litigation concerning Proposition 208 and only one 1999 legislative change that revises the Act, the Commission decided to postpone publication of the Act in paper format until 2000.

The Act was amended by SB 1753, authored by Senator Schiff, to require elected members and candidates for the board of administration of the Public Employees Retirement System to file campaign disclosure reports on forms prescribed by the FPPC. The reports will be filed with the Secretary of State, with copies retained by PERS. The FPPC will be adopting regulations specifying how statements filed by the board members and candidates will be audited. (Chapter 923, Stats. 1998.)

Interactive Forms

Check out the Commission's website at www.fppc.ca.gov for interactive versions of many disclosure forms. The forms can be completed on your computer and printed out, but may not be saved or filed electronically.

Conflict of Interest Regulations

The Commission adopted restructured and renumbered conflict of interest regulations at the October Commission meeting (Regulations 18700 - 18708.) Copies of these regulations may be obtained on the Commission's website and on fax-on-demand, index 2027.

Audit Selection — 1998 Election Cycle

On February 23, 1999, the Commission will conduct a public drawing to select lobbying entities, legislative districts, judicial offices, and statewide candidates whose contributions and expenditures were less than \$25,000 for audit. The drawing will be held at 10:00 a.m. in the Commission Hearing Room, 428 J Street, 8th Floor, Sacramento. Drawings will be conducted later in 1999 for general purpose committees and local jurisdictions.

San Francisco Department of Elections — New Address

Some committees are required to file copies of campaign statements with the San Francisco Department of Elections. Effective **January 8, 1999**, the Department of Elections will be moving to the following address:

San Francisco Department of Elections
Room 48, City Hall
One Doctor Carlton Goodlett Place
San Francisco, CA 94102-4635

Planning an Inaugural Event?

Contact the Commission at
(916) 322-5660 for advice.

Enforcement Actions

Fine Announced Against Willard Murray, Kevin Murray, Slate Committee

The Commission has imposed total fines of \$60,250 against former Assembly member Willard Murray, Assembly member Kevin Murray and the United Democratic Campaign Committee, a Southern California slate mailer organization.

In separate cases, the UDCC, Willard Murray and UDCC treasurer Kevin Murray were fined \$38,000 for 25 violations of the Act. The Commission also imposed \$22,250 for 17 violations against Kevin Murray and Friends of Kevin Murray, his campaign committee.

The violations by UDCC, Willard Murray and Kevin Murray occurred from 1994 through 1996 and include late filing, omission of information or failure to file campaign disclosure statements and failure to follow slate mailer disclaimer and paid advertising identification requirements. Additional violations charged against Kevin Murray and his campaign committee include failure to file campaign disclosure statements on time during the same three-year period.

The Commission action follows its rejection of a proposed decision on the two consolidated cases made by an administrative law judge in January, 1998. The first case originated in late 1994, the second case in early 1996.

Money Laundering Violations

November 5 Meeting

Brayton, Gisvold & Harley was fined \$9,000 for laundering campaign contributions to the campaign of candidate Willie Brown during the 1995 San Francisco mayoral election.

Brayton, Gisvold & Harley is a law firm located in the city of Novato in Marin County.

In July 1995, Brayton, Gisvold & Harley reimbursed others for making five campaign contributions totaling \$3,500 to Brown's campaign. When the money laundering occurred, the city and county of San Francisco had a local ordinance limiting campaign contributions to candidates and committees from a single source to \$750 per election cycle.

The Act prohibits making campaign contributions in the name of another person. Commonly known as "campaign money laundering," the illegal act deprives the public of the right to know the true source of contributions.

December 3 Meeting

California Waste Removal Systems, Inc., also known as California Waste Recovery Systems, Inc., was fined \$150,000 for laundering campaign contributions.

California Waste Removal Systems was a family owned and operated refuse and recycling business during 1994 through 1996. David Vaccarezza was the corporation's president and majority shareholder and his sister, Annette Vaccarezza Murdaca was the vice president and largest minority shareholder. California Waste Removal Systems had numerous public contracts, including contracts with Sacramento and San Joaquin counties, the cities of Lodi, Galt and Sacramento, Woodbridge Sanitary District and the Lodi Unified School District.

During 1994 and 1996, California Waste Removal Systems made 90 illegal campaign contributions by requesting employees to make campaign contributions and then reimbursing the employees for their contributions. Most of the contributions were made in the amount of \$99 each. Contributions were made to San Joaquin supervisor candidates Mel Panizza and George Barber; Sacramento supervisor candidates Don Nottoli and Kay Albiani; Lodi city council candidates Jack Sieglock, Keith Land, David

Warner, Phillip Pennino, Steve Mann, John L. Young, and Maggie Talbot; Stockton city council candidates Richard Nickerson, Frank "Larry" Ruhstaller, Gloria Nomura, and Floyd Weaver; Lodi Unified School District candidates Kenneth Mullen and David Worfolk; Galt city council candidates Anthony Gora, Richard Pratt and Carol Cowley; and Manteca city council candidate Carlton Perry.

Conflict of Interest Violations

November 5 Meeting

John Varela, a former Morgan Hill city councilman, was fined \$1,500 for making a governmental decision in which he had a financial interest.

During 1993 through 1995, Varela's wife was employed by The Bridge Counseling Center, Inc., a non-profit organization located in Morgan Hill. In March 1993, 1994 and 1995, Varela voted on annual decisions to allocate Community Development Block Grant funds to The Bridge. The Act prohibits public officials from making governmental decisions which directly involve a source of income.

December 3 Meeting

William B. Rick, a former member of the California Coastal Commission, was fined \$1,750 for voting on a matter in which he had a financial interest.

Rick was a member of the California Coastal Commission from February 1992 until March 1997. On November 15, 1995, Rick voted on a Southern California Edison proposal to reduce the company's fiscal responsibility for environmental damage. At the time he voted, Rick held an investment in Southern California Edison bonds. The Act prohibits public officials from making governmental decisions which directly involve an investment interest.

Freida Tadina, Mt. Shasta Planning Commissioner, was fined \$1,000 for attempting to use her official position to influence a decision involving the zoning of an area which included her property.

On July 30, 1996, the Mt. Shasta Planning Commission was discussing a comprehensive revision of the city's Land Development Code. As part of the changes to the code, staff proposed changing the density of the area that included the Sunset Knolls subdivision to one home per acre or two homes per acre. Tadina and her husband own over 50 acres in the Sunset Knolls subdivision. During the meeting, Tadina participated in the discussion concerning the housing density. Public officials are prohibited from using their positions to influence a decision in which they have a financial interest.

Disclosure Violations

November 5 Meeting

Women's Political Committee and Nancy S. Brakensiek, treasurer, were fined \$15,000 for failure to itemize contributions received of \$100 or more.

Formed in 1977, the Women's Political Committee (WPC) is a state general purpose committee located in Los Angeles. During the period from January 1, 1993, to December 31, 1994, WPC failed to itemize contributions totaling \$159,100 on campaign statements. In addition, WPC failed to itemize \$132,492 in contributions for the period of January 1, 1995, through December 31, 1996. Instead of disclosing specific information regarding individual contributors, WPC reported the Women's Political Committee Federal PAC (WPC Federal) as the contributor.

WPC Federal was actually the intermediary for the contributions. The individual contributions were in the form of dues payments by WPC

Enforcement Actions

members to WPC Federal. For contributions which aggregate \$100 or more in a calendar year from a single source, the Act requires committees to report the date received, amount of the contribution, and the full name, street address, occupation and employer of the contributor.

Cynthia Green-Geter, Friends of Cynthia Green-Geter, and Committee to Elect Cynthia Green-Geter for State Assembly, 52nd District, were fined \$12,000 for various disclosure violations.

Green-Geter is an incumbent school board trustee for the Lynwood Unified School District. She was re-elected to the school board in the November 7, 1995, election. Green-Geter also ran for State Assembly for the 52nd District in the March 26, 1996, election.

Despite numerous requests from the Los Angeles County Registrar of Voter's Office, the Secretary of State's Office, and the Fair Political Practices Commission, Green-Geter failed to file six pre-election and semi-annual campaign disclosure statements for the period covering January 1, 1995, through December 31, 1996.

Fred Cressel and Committee to Elect Fred Cressel were fined \$12,000 for failing to timely file campaign statements.

Cressel was a successful candidate in the 1995 primary and general Compton city council elections. Cressel also ran unsuccessfully for Mayor of Compton in 1997. Despite repeated notifications from the Compton City Clerk's office and the Fair Political Practices Commission, Cressel failed to file six pre-election and semi-annual campaign disclosure statements in connection with these elections.

Richard Scaife was fined \$7,000 for failing to file a late contribution report and three major donor campaign statements.

Scaife made a \$50,000 contribution to Californians for Paycheck Protection, a ballot measure committee controlled by Governor Pete Wilson, in support of Proposition 226 during the

late contribution reporting period in connection with the June 2, 1998, election. Scaife failed to file a late contribution report and a semi-annual major donor campaign statement to disclose this contribution. Additionally, Scaife made two \$50,000 contributions to California Civil Rights Initiative, Yes on 209, in 1996. However, the two semi-annual major donor statements required for 1996 were not filed.

Windway Capital Corporation was fined \$4,000 for failing to file a late contribution report and a major donor campaign statement.

Windway Capital Corporation (Windway) made a \$10,000 contribution to Californians for Paycheck Protection, a ballot measure committee controlled by Governor Pete Wilson, in support of Proposition 226 during the late contribution reporting period in connection with the June 2, 1998, election. Windway failed to file a late contribution report disclosing this contribution. Additionally, Windway made a \$100,000 contribution to the Yes on 209 Committee in August 1996. However, the semi-annual major donor statement required for 1996 was not filed.

California Victory Fund Sponsored by the National Republican Senatorial Committee and Mary M. Dotter, treasurer, were fined \$5,000 for various disclosure violations.

The California Victory Fund is a committee that was established by the National Republican Senatorial Committee in the Spring of 1998 and is located in Washington, D.C. The committee failed to include the name of its sponsor in the name of the committee on its Form 410, Statement of Organization, and failed to include the name of its sponsor in the name of the committee on its semi-annual campaign statement. In addition, the committee failed to report a \$200,000 contribution received from the National Republican Senatorial Committee during the late contribution reporting period. A late contribution report disclosing a \$200,000

contribution to Lungren for Governor was also not filed.

The Act requires committees that receive 80 percent or more of their contributions from a sponsor or its members, officers, employees or shareholders to include the sponsor's name in the name of the committee and on the committee's campaign statements.

Larry Smead was fined \$3,000 for failing to file two major donor campaign statements.

During the first and second half of 1996, Smead made contributions aggregating \$70,000 to the California Civil Rights Initiative, Yes on 209. However, two semi-annual major donor campaign statements required for 1996 were not filed.

Lewis W. Coleman was fined \$2,500 for failing to file a late contribution report and a major donor campaign statement.

Coleman made a \$10,000 contribution to Californians for Paycheck Protection, a ballot measure committee controlled by Governor Pete Wilson, in support of Proposition 226 during the late contribution reporting period in connection with the June 2, 1998, election. Coleman failed to file a late contribution report and a semi-annual major donor statement disclosing this contribution.

Joseph M. Schell was fined \$2,500 for failing to file a late contribution report and a major donor campaign statement.

Schell made a \$7,500 contribution to Californians for Paycheck Protection, a ballot measure committee controlled by Governor Pete Wilson, in support of Proposition 226 during the late contribution reporting period in connection with the June 2, 1998, election. Schell failed to file a late contribution report disclosing this contribution. Schell also failed to file a semi-annual major donor statement disclosing \$12,500 in cumulative contributions made to Californians

for Paycheck Protection during the first six months of 1998.

John K. Skeen was fined \$2,500 for failing to file a late contribution report and a major donor campaign statement.

Skeen made a \$10,000 contribution to Californians for Paycheck Protection, a ballot measure committee controlled by Governor Pete Wilson, in support of Proposition 226 during the late contribution reporting period in connection with the June 2, 1998, election. Skeen failed to file a late contribution report and a semi-annual major donor statement disclosing contributions made during the first half of 1998.

L. W. Lane, Jr. was fined \$2,000 for failing to file a late contribution report.

Lane made a \$50,000 contribution to Californians for Paycheck Protection, a ballot measure committee controlled by Governor Pete Wilson, in support of Proposition 226 during the late contribution reporting period in connection with the June 2, 1998, election. Lane failed to file a late contribution report disclosing this contribution.

Republican National State Elections (RNSE) was fined \$2,000 for failing to file a late contribution report.

RNSE made a \$30,000 contribution to Californians for Paycheck Protection, a ballot measure committee controlled by Governor Pete Wilson, in support of Proposition 226 during the late contribution reporting period in connection with the June 2, 1998, election. RNSE failed to file a late contribution report and a semi-annual major donor statement disclosing this contribution.

Geico Corporation was fined \$1,250 for failing to file a late contribution report.

Geico Corporation made a \$10,000 contribution to Californians for Paycheck Protection, a ballot measure committee

Enforcement Actions

controlled by Governor Pete Wilson, in support of Proposition 226 during the late contribution reporting period in connection with the June 2, 1998, election. Geico Corporation failed to file a late contribution report disclosing this contribution.

Kent A. Logan was fined \$1,250 for failing to file a late contribution report.

Logan made a \$10,000 contribution to Californians for Paycheck Protection, a ballot measure committee controlled by Governor Pete Wilson, in support of Proposition 226 during the late contribution reporting period in connection with the June 2, 1998, election. Logan failed to file a late contribution report disclosing this contribution.

Duane Roberts was fined \$1,250 for failing to file a late contribution report.

Roberts made a \$7,500 contribution to Californians for Paycheck Protection, a ballot measure committee controlled by Governor Pete Wilson, in support of Proposition 226 during the late contribution reporting period in connection with the June 2, 1998, election. Roberts, a major donor committee, failed to file a late contribution report disclosing this contribution.

December 3 Meeting

Democratic State Central Committee of California was fined \$24,000 for various disclosure violations.

During the reporting period of January 1, 1993, through December 31, 1994, the committee failed to disclose on their allocation pages in-kind contributions totaling \$725,855.51 to Kathleen Brown, candidate for Governor in the 1994 election. The committee also failed to file reports disclosing late contributions and independent expenditures; failed to properly disclose occupation and employer information for itemized contributors; and did not fully disclose subvendor and accrued expenditure information.

John Dragone, Jr., former Centinela Valley Union High School District board member, was fined \$6,000 for failure to file three semi-annual campaign disclosure statements in a timely manner. Dragone failed to file required reports despite repeated requests to file by the Los Angeles County Registrar Recorder/County Clerk and the Commission.

Citizens to Protect Our Community (CPOC) and Harold S. Trubo, treasurer, were fined \$4,000 for disclosure violations.

CPOC was primarily formed to support Measure O, a utility tax measure on the June 4, 1996, ballot in Moreno Valley. The committee failed to disclose contributions received on its campaign statements and also failed to file three late contribution reports.

James R. Leininger was fined \$4,000 for failing to file two major donor committee campaign statements.

Leininger contributed \$10,000 in 1996 to Entertainment PAC d.b.a. Coalition to Educate America, a general purpose recipient committee. He also contributed \$45,000 in 1997 to Campaign Reform Initiative, a statewide ballot measure committee. In both of these years, Leininger failed to file major donor campaign statements.

C. Michael Kojanian was fined \$2,500 for failing to file a late contribution report and a major donor committee campaign statement.

Kojanian made a \$12,500 contribution to Californians for Paycheck Protection, a ballot measure committee controlled by Governor Pete Wilson, in support of Proposition 226 during the late contribution reporting period in connection with the June 2, 1998, election. Kojanian failed to file a late contribution report and a semi-annual major donor statement disclosing this contribution.

David A. Bossen was fined \$1,250 for failing to file a late contribution report and a major donor committee campaign statement.

Bossen made a \$10,000 contribution to Californians for Paycheck Protection, a ballot measure committee controlled by Governor Pete Wilson, in support of Proposition 226 during the late contribution reporting period in connection with the June 2, 1998, election. Bossen failed to file a late contribution report and a semi-annual major donor statement disclosing this contribution.

DHL Airways, Inc., was fined \$1,250 for failing to file a late contribution report and a major donor committee campaign statement.

DHL Airways, Inc. made a \$10,000 contribution to Californians for Paycheck Protection, a ballot measure committee controlled by Governor Pete Wilson, in support of Proposition 226 during the late contribution reporting period in connection with the June 2, 1998, election. DHL Airways, Inc. failed to file a late contribution report and a semi-annual major donor statement disclosing this contribution.

Joseph G. Fogg III, was fined \$1,250 for failing to file a late contribution report and a major donor committee campaign statement.

Fogg made a \$10,000 contribution to Californians for Paycheck Protection, a ballot measure committee controlled by Governor Pete Wilson, in support of Proposition 226 during the late contribution reporting period in connection with the June 2, 1998, election. Fogg failed to file a late contribution report and a semi-annual major donor statement disclosing this contribution.

Thinking About Filing a Complaint?

An important part of the Commission's ability to enforce the Act is the receipt of complaints from citizens. Persons who suspect that violations of the Act have occurred are encouraged to file a written complaint with the Commission's Enforcement Division. However, prior to filing a written complaint, it may be advantageous to contact Enforcement Division personnel at 1-800-561-1861 to determine whether the Commission has jurisdiction over the activity in question. An enforcement complaint form and additional information about filing a complaint is available on the Commission's website (www.fppc.ca.gov) or by dialing fax-on-demand at 1-888-622-1151, index 2098.

Campaign Issues

What's Ahead. . .1999 Campaign Disclosure Highlights

A brief overview of filing obligations for candidates, officeholders and committees is provided below. Filers should consult the Commission's campaign information manuals and addendum for further information.

Mandatory Statements

Most on-going recipient committees (PACs, candidate controlled committees, and ballot measure committees) must file semi-annual statements on these due dates:

Period Covered	Due Date
* - 12/31/98	1/31/99 (Sunday - file by 2/1/99)
* - 6/30/99	7/31/99 (Saturday - file by 8/2/99)

*The period covered begins on the day after the closing date of the last statement filed, or January 1, if no previous statement has been filed.

Note: Candidates seeking election in 1999 who raised or spent funds **during the last six months of 1998** must file a semi-annual statement no later than February 1, 1999.

Up for Election in 1999?

Candidates and ballot measure committees in 1999 elections must file pre-election statements covering specific timeframes. In addition, certain city committees must file pre-election statements in connection with 1999 elections. Contact your local election official or the Commission to obtain filing deadlines.

Don't Forget Late Reports

During the 16 days before any election held in 1999, candidates and committees that receive or make contributions or make independent expenditures of \$1,000 or more in connection with that election must file late contribution/late independent expenditure reports within 24 hours.

Making Independent Expenditures?

Committees, officeholders and candidates that make \$500 in expenditures independently to support or oppose a single candidate or ballot measure in a 1999 election may be required to file supplemental independent expenditure reports (Form 465) in connection with the election.

Contributions to Elected State Officeholders

Committees, officeholders and candidates that give \$5,000 in contributions to elected state officeholders and their controlled committees or committees primarily formed to support/oppose these officeholders must file special odd-year reports on the following schedule:

Period Covered	Due Date
1/1/99 - 3/31/99	4/30/99
7/1/99 - 9/30/99	10/31/99 (Sunday - file by 11/1/99)

Continued on next page

What's Ahead. . .Continued from page 18

Example:

California Birdhouse Manufacturing Association PAC, a state general purpose committee, made a \$1,000 contribution to an assemblymember, a \$2,000 contribution to the Governor, and a \$2,000 contribution to a senator during the period January 1, 1999, through March 31, 1999. The PAC must file a campaign disclosure statement for that period no later than April 30, 1999. The period covered on the PAC's semi-annual statement is April 1, 1999, through June 30, 1999, due August 2, 1999.

Contributing \$5,000 in a Single 1999 Election?

Committees, candidates and officeholders that contribute \$5,000 or more during the period starting six months before and ending 17 days prior to a 1999 election may be required to file Form 495 as an attachment to their regular campaign report. This report is filed 12 days before the election. However, the special report is not triggered if the contributions have already been reported on a semi-annual statement, a pre-election statement, or a special odd-year report.

Example:

*On February 10, 1999, Independent Property Developers PAC, a state general purpose committee, gave a \$5,000 contribution to Sally Smith, a Newtown city council candidate running in the March 2, 1999, election. The PAC must file a Form 495 as an attachment to its Form 420 covering the period January 1, 1999, through February 13, 1999, no later than February 18, 1999. Since this report is filed in the same locations that the PAC regularly files its reports, the PAC is **not** required to file a copy with the Newtown City Clerk. The period covered on the PAC's semi-annual statement is February 14, 1999, through June 30, 1999.*

State and County Committees

In addition to filing semi-annual statements, state and county recipient committees may trigger the special reports outlined above if they make contributions or independent expenditures during specified timeframes. State and county committees that are active in local city and county elections during 1999 are not required to file regular pre-election statements in connection with those local elections.

Example:

Pipefitters Association PAC, a state general purpose committee, makes a \$500 contribution to Joseph Haley, a mayoral candidate running in the March 2, 1999, election, and a \$750 contribution to a city council candidate running in the April 4, 1999, election. The PAC did not trigger any special reports; therefore, these contributions are reported on the PAC's semi-annual statement due August 2, 1999.

1999 Special Elections

Several special elections are being called in 1999 to fill vacant offices. As currently interpreted by the courts, the Act imposes contribution limits on candidates running in special elections to fill these vacancies. Additionally, officeholders and candidates are prohibited from transferring campaign contributions to candidates running in special elections. The chart below illustrates the contribution limits for **special elections**:

Contributor	Limit Per Cycle
Individual, Business Entity, Corporation	\$1,000
Political Committee	\$2,500
Broad Based Committee	\$5,000
Political Party	\$5,000
Candidate's Personal Funds	No Limit

Campaign Issues

1998 Campaign Wrap Up

Terminating Committees

Diane Chambers ran for city council in the November 3, 1998, election. She was not elected to office and now she would like to terminate her committee. However, before Diane may terminate her committee, she must ensure that her committee meets the following criteria to be eligible to terminate:

- The committee is not (and does not anticipate) receiving contributions or making expenditures;
- All the committee's funds have been expended;
- All debts have been eliminated or the committee has declared it has no intention or ability to pay the debts; and
- All required campaign statements have been filed.

The following forms must be filed to terminate Diane's filing obligations:

- ✓ Form 501 - Candidate Intention
- ✓ Form 502 - Campaign Bank Account
- ✓ Form 490 - Officeholder, Candidate and Controlled Committee Campaign Statement
- ✓ Form 415 - Recipient Committee Statement of Termination
- ✓ Form 416 - Officeholder and Candidate Statement of Termination

Extra Funds?

Sam Malone ran for Newtown Water District in the November 3 election, and he was not elected to office. After paying expenses for this election, he has \$5,000 in leftover campaign funds which he would like to use to run for the **same** office in two years. Before January 1, 1999, Sam must file the following forms so that his campaign funds do not become surplus:

- ✓ Form 501 indicating the future election
- ✓ Form 502 redesignating the \$5,000 in the bank account to the future election.

Sam must continue to file campaign disclosure statements (Form 490) semi-annually. If Sam does not file the Forms 501/502 before January 1, his campaign funds become surplus and may not be used for a future election. Surplus funds may only be used for specific purposes such as charitable donations and pro-rata return of contributions to contributors. A complete list of allowable uses of surplus funds is contained in Information Manual A.

1998 Ballot Measure Committees

Concerned Parents, Yes on Measure A, was a primarily formed committee to support a ballot measure in the November 3 election. The committee has funds left after paying expenses and would like to remain in existence to support or oppose future ballot measures or candidates. The committee must amend its Form 410, statement of organization to indicate that it is now a general purpose committee. The committee must continue to file disclosure statements until it terminates. Information Manual C contains information for general purpose committees' filing requirements.

1999 Workshops Scheduled

Lobbying Disclosure Workshops

- ◆ New registration requirements for the 1999-2000 legislative session
- ◆ Review of Forms 615, 625, and 635
- ◆ Discussion of gift notifications

Sacramento

Friday, April 23



Friday, July 16



Friday, October 22

Commission Hearing Room
428 J Street, 8th Floor
10 a.m. to 12 noon

These workshops are not intended for lobbyists who need to attend an orientation course to complete their lobbyist registration. An orientation course has been scheduled for January 8, 1999. The orientation course is conducted by the Assembly Legislative Ethics Committee and the Senate Committee on Legislative Ethics. Please call (916) 324-6929 for information on orientation courses.

**Reservations required for all workshops.
Free — sign up today!
(916) 322-5660, press 3**

General Purpose Committee Workshops

- ◆ Overview of campaign disclosure provisions
- ◆ Review of Forms 450 and 420

A general purpose committee is any entity that receives \$1,000 or more in contributions during a calendar year but is not primarily formed to support or oppose a single officeholder, candidate, measure or specific candidates or measures being voted on in a single election. General purpose committees are more commonly referred to as political action committees ("PACs").

Sacramento

Friday, January 22 ◆ Friday, April 9

Friday, July 23 ◆ Friday, October 8

Commission Hearing Room
428 J Street, 8th Floor
10 a.m. to 12 noon

Candidate/Treasurer Workshops

- ◆ Overview of campaign disclosure provisions and prohibitions
- ◆ Mass Mailing Requirements

These workshops are tailored to assist candidates and treasurers of candidate controlled committees involved in the March and April elections that will raise over \$1,000.

Pasadena

Tuesday, January 5
Council Chambers
100 North Garfield Avenue, Room 247
7 p.m. to 9 p.m.

Napa

Wednesday, January 6
Council Chambers
955 School Street
6 p.m. to 8 p.m.

1999 Workshops Scheduled

Conflict of Interest Code Workshops for State Agencies

The Technical Assistance Division will conduct the following workshops for state agencies on amending conflict of interest codes. These workshops are **not** intended to assist local and multi-county agencies in amending their conflict of interest codes. Workshops will be scheduled in 2000 specifically to address local and multi-county agency code adoption and amendments.

Sacramento

Commission Hearing Room
428 J Street, 8th Floor

Tuesday, February 9, 1999
10 a.m. to 12 noon

or

Thursday, February 18, 1999
1 p.m. to 3 p.m.

State Agency Biennial Notice

Each state agency is required to review its conflict of interest code and notify the Commission no later than March 1, 1999, if the code is accurate or if amendments are required. The Commission will send an informational packet explaining the biennial review process to all state agencies in December. If any code revisions are necessary, the amendments must be submitted to the Commission within 90 days of submitting the biennial notice.

Statement of Economic Interests Workshops for Filing Officers

- ◆ Overview of new legislative changes
- ◆ Discussion of duties required to be performed by filing officers/officials

Sacramento

Commission Hearing Room
428 J Street, 8th Floor

Multi-County Agencies

Tuesday, January 12 ◆ 11 a.m. to 1 p.m.

State Agencies

Wednesday, January 13 ◆ 10 a.m. - 12 noon

or

Thursday, January 21 ◆ 1 p.m. to 3 p.m.

City/County

Wednesday, January 20 ◆ 11 a.m. to 1 p.m.

or

Tuesday, January 26 ◆ 11 a.m. to 1 p.m.

Other city/county workshops will be held at the locations listed below:

San Jose

Wednesday, February 3
Santa Clara Valley Transportation Authority
3331 North First Street, Room B104
10 a.m. to 12 noon

San Diego

Wednesday, February 3
202 C Street, 12th Floor
1 p.m. to 3 p.m.

Glendale

Thursday, February 4
613 E. Broadway, 2nd Floor
1 p.m. to 3 p.m.

Reservations required for all workshops. Free — sign up today! (916) 322-5660, press 3

Clerk's Corner

New 1998/99 Form 700

The 1998/99 Form 700 was approved at the November 5 Commission meeting, so the updated forms will be mailed to you at the end of December. The new forms will be used for 1998 annual statements and 1999 assuming, leaving and candidate statements. Until you receive the new forms, you should continue to use the 1997/98 Form 700s for assuming, leaving, and candidate statements.

Form 700 Assuming/Leaving Office

Since many new officials were elected in the November 3 election, please remember to have newly elected officials file the Form 700 assuming office statement within 30 days of assuming office. Officials leaving office are required to file their Form 700 leaving office statement within 30 days of leaving their position. Incumbents who were re-elected continue to file annual statements.

Elected state officers who assume office during December 1998 and January 1999 do not file assuming office statements. Contact the FPPC at (916) 322-5660 for assistance.

Form 700 Candidate Statements

Many cities are holding spring 1999 elections. All candidates running for city council, mayor, treasurer, and city attorney (including incumbents) are required to file Form 700 candidate statements no later than the final filing date for their declaration of candidacy. Please make sure the originally signed candidate statements for these positions have been forwarded to the Commission.

In addition, if incumbents are running for re-election, they must file a 1998 annual statement no later than April 1, 1999. **The candidate statement does not preclude the filing of an annual statement.** Since the period covered on the candidate statement is different than the period covered on the annual statement, two separate statements must be filed.

1998/1999 Campaign Statements

Candidates that have raised or spent funds during the last six months of 1998 for an election in 1999 must file a 1998 campaign statement (Form 470 or Form 490) to report this activity. Information Manual A contains an explanation of the difference between the Form 470 and Form 490 filing requirements.

Example:

Charles Jones is running for city council in the March 2, 1999, election. Charles spent \$500 of his personal funds for campaign signs and bumper stickers in December 1998. He does not anticipate raising or spending \$1,000 or more in 1999 for this election. Charles must file a Form 470 for calendar year 1998 no later than February 1, 1999, and a second Form 470 no later than January 21, 1999, for calendar year 1999.

Fines/Waivers Revisited

The October 1998 *Bulletin* included an article about fines and waivers for late filed statements. After publication of this issue, the Commission issued Advice Letter A-98-245 which states that the Act grants total authority for imposing or waiving fines to the filing officer. Fines cannot be appealed to the FPPC, but local agencies may develop their own appeal process. Contact the Commission to obtain the full text of this letter.

Question of the Month

Where may I obtain a sample log for campaign statements that are filed with my office?

The *Handbook for City and County Filing Officers on Campaign Disclosure Provisions* contains sample logs on Pages 73-76.

(Thanks to Sheila Kennedy, San Marcos City Clerk, for submitting this question. Filing officers who wish to have specific issues addressed in future issues may contact Dixie Howard at (916) 322-5660.)

Commission Meeting Summaries

October 19 Special Meeting

Chairman James M. Hall called the October 19, 1998, special meeting of the FPPC to order at 9:36 a.m. In addition to Chairman Hall, Commissioners William Deaver, Kathleen Makel, James Porter and Carol Scott were present via teleconference.

Commissioners met in closed session to consider the proposed decision *In the Matters of United Democratic Campaign Committee, Willard Murray and Kevin Murray, Treasurer, Case No. 94/685 and Friends of Kevin Murray and Kevin Murray, Case No. 96/312*. The public meeting was reconvened at 11:45 a.m., and Chairman Hall stated that the Murray matter is still under consideration by the Commission and that it will be continued to the November 5, 1998, meeting.

November 5 Meeting

Chairman James M. Hall called the November 5, 1998, meeting of the FPPC to order at 10:04 a.m. in the Commission Hearing Room, 428 J Street, Sacramento. In addition to Chairman Hall, Commissioners William Deaver, Kathleen Makel, James Porter and Carol Scott were present.

The Commissioners approved \$83,750 in enforcement fines.

The 1998/99 Form 700, Statement of Economic Interests was approved. In addition, the Commission held pre-notice discussion of the following regulations:

- Regulation 18991— Audits of Campaign Reports and Statements of Local Candidates and Their Controlled Committees
- Regulation 18993 — Contain in Detail
- Regulation 18996 — Scope of Audits and Investigations

Commissioners adopted proposed amendments to Regulation 18940.2 — Gift Limit Amount (which raises the gift limit to \$300, effective January 1, 1999), and Regulation 18530 — Use of Public Funds. The 40-day demand provision for individuals to bring their own private lawsuit for violations of the Act was also discussed.

December 3 Meeting

Chairman James M. Hall called the December 3, 1998, meeting of the FPPC to order at 10:05 a.m. in the Commission Hearing Room, 428 J Street, Sacramento. In addition to Chairman Hall, Commissioners William Deaver, Kathleen Makel and James Porter were present.

The Commission approved \$197,000 in enforcement fines. Preliminary discussion of revisions to campaign finance disclosure forms; change of filing schedules; and additional information to assist electronic filing was held. The Commission also discussed preliminary legislative proposals for the 1999-2000 session and McPherson Commission appointment procedures.

Formal written advice provided pursuant to Government Code section 83114 subdivision (b) does not constitute an opinion of the Commission issued pursuant to Government Code section 83114 subdivision (a) nor a declaration of policy by the Commission. Formal written advice is the application of the law to a particular set of facts provided by the requestor. While this advice may provide guidance to others, the immunity provided by Government Code section 83114 subdivision (b) is limited to the requestor and to the specific facts contained in the formal written advice. (Cal. Code Regs., tit. 2, §18329, subd. (b)(7).)

Informal assistance is also provided to persons whose duties under the act are in question. (Cal. Code Regs., tit. 2, §18329, subd. (c).) In general, informal assistance, rather than formal written advice is provided when the requestor has questions concerning his or her duties, but no specific government decision is pending. (See Cal. Code Regs., tit. 2, §18329, subd. (b)(8)(D).)

Formal advice is identified by the file number beginning with an “A,” while informal assistance is identified by the letter “I.”

On January 6, 1998, the Federal District Court for the Eastern District of California issued a preliminary injunction barring further enforcement of any portion of Proposition 208. (*California Prolife Council PAC vs. Scully*, CIV-S-96-1965 LKK/DAD.) On January 15, 1998, the Fair Political Practices Commission decided to immediately appeal the ruling to the Ninth Circuit Court of Appeals.

The Court of Appeals has scheduled oral arguments to be heard in December 1998.

Proposition 208

Gerald F. Hicks
Walnut Creek
Dated August 17, 1998
Our File Number: A-98-181

Paul M. Valle-Riestra
City of Walnut Creek
Dated August 14, 1998
Our File Number: A-98-191

Section 85705, added to the Act by Proposition 208, does not prohibit contributions while the federal court’s preliminary injunction remains in effect. If the injunction is vacated before the election, contributions made during the injunction period need not be returned.

The district court’s injunction has the effect of delaying or suspending implementation of Proposition 208. Therefore, Section 85705, added to the Act by Proposition 208, is currently without effect. If the injunction is vacated, contributions made during the injunction will not give rise to a violation.

Campaign

Ruth F. Gluck
Democratic Club of Leisure
World/Laguna Hills
Dated June 16, 1998
Our File Number: A-98-130

A local democratic club does not qualify as a recipient committee because it has not received contributions totaling \$1,000 or more in a calendar year. The club is not required to file a statement of organization (Form 410) and campaign disclosure statements.

Advice Summaries

James Hill
Yorba Linda
Dated August 28, 1998
Our File Number: A-98-194

A homeowners' association that paid an attorney to draft a ballot measure and that has supported the measure in its quarterly newsletter currently has no filing obligation because neither of these activities fall within the definition of contribution and the association has no previous history of political activity. However, if the association continues to support the ballot measure by specifically asking for political contributions or engaging in activities which invoke the "first bite of the apple" rule, it may incur filing obligations.

John P. McDonald
Committee to Elect
Barbara McDonald - Judge
Dated September 14, 1998
Our File Number: I-98-206

Tickets purchased to attend a musical event were not contributions to the candidate, since purchasers did not know that their money would go to the candidate. The proceeds contributed to the committee came from the entertainer.

Conflicts of Interest

Louis D. Boitano
Amador County
Board of Supervisors
Dated August 28, 1998
Our File Number: A-97-557a

A public official does not have an economic interest in real property held by a trust because the trustees have the discretion to invade the principal for someone other than the public official and this power is not limited by an ascertainable standard.

Charles S. Vose
City of Downey
Dated August 18, 1998
Our File Number: A-97-578a

A city councilmember, who is a doctor and an independent contractor of a business that contracts with a hospital run by a foundation, may vote to initiate litigation against a foundation where litigation will have no impact on the foundation's contractors.

Councilman David Hardison
City of Azusa
Dated June 8, 1998
Our File Number: A-98-142

A councilmember may participate in a development project as long as the development will not foreseeably increase or decrease the fair market value of the official's property by \$10,000 or more, or the rental value by at least \$1,000 in a 12-month period. This letter also discusses other potential economic interests.

Helene L. Leichter
City of Morgan Hill
Dated August 20, 1998
Our File Number: I-98-173

It is reasonably foreseeable that a public official's participation in decisions to adopt amendments to the redevelopment plan, to adopt a development moratorium on commercial buildings, or general zoning ordinances will have a material financial effect on the public official's sources of income, her real estate business, or her leasehold interest.

Deborah Orlik
City of La Cañada Flintridge
Dated August 20, 1998
Our File Number: I-98-175

A public official may not participate in a governmental decision regarding a client of her husband's law firm if it is reasonably foreseeable that the decision will have a material effect on her husband's law firm. Her husband owns less than a 10 percent ownership interest in the firm. The public official believes that she is being targeted for "selective disqualification."

Marguerite P. Battersby
City of Highland
Dated August 20, 1998
Our File Number: A-98-176

Kevin G. Ennis
City of Fairfield
Dated August 28, 1998
Our File Number: A-98-179

Richard E. Archibald
City of Sacramento
Dated August 25, 1998
Our File Number: I-98-184

Don Johnson
City of Santa Paula
Dated August 31, 1998
Our File Number: A-98-188

Kayla J. Gillan
CalPERS
Dated September 16, 1998
Our File Number: A-98-193

Michael R. Adams
Antelope Valley
Community College District
Board of Trustees
Dated August 27, 1998
Our File Number: A-98-195

Colleen Beall
Santa Barbara County
Planning Commission
Dated September 1, 1998
Our File Number: A-98-196

Scott H. Howard
City of Glendale
Dated September 2, 1998
Our File Number: A-98-201

Steve Tolley
City of Arroyo Grande
Dated September 11, 1998
Our File Number: A-98-207

An Indian tribe is a “government authority” within the meaning of Section 89506(a)(2). A gift of travel from the tribe to the mayor of a neighboring city is reportable, but not subject to limits.

A decision before the voters in the form of a ballot measure is not a governmental decision. Thus, the public official may share her views on the measure with anyone. The Act does not prohibit an official from communicating with the public or the press.

A person or entity that was a source of income more than 12 months prior to a governmental decision is not a disqualifying financial interest.

This letter advises a city councilmember who owns a local newspaper. A real estate company, that advertises in the newspaper, was selected as the exclusive selling agent for a new development that is before the city council.

A CalPERS official who serves as a director of a corporation in which CalPERS invests would have an economic interest in the business entity under Section 87103(d).

A public official may participate in a decision that would increase the salaries of all employees in the same job classification as his wife.

A planning commissioner, who is a real estate agent working as an independent contractor under contract with a brokerage firm, may not vote on a matter that will have a material financial effect on the brokerage, which is a source of income to her.

An employee of a city planning division may participate in the review of a proposed development located 430 feet from his home.

A public official may not participate in a governmental decision regarding the development of a 10-acre parcel considering that the public official’s spouse is a real estate agent who represents the buyer of a piece of property that is currently in escrow and is within 300 feet of the 10-acre parcel.

Advice Summaries

Gale Guthrie
Guthrie & Guthrie
Dated September 16, 1998
Our File Number: I-98-209

Peter G. DeMauro
State of California
Employment Training Panel
Dated September 17, 1998
Our File Number: A-98-219

Conflict of Interest Code

William Murano
Lassen County
Dated August 7, 1998
Our File Number: I-98-030a

Derek C. Thomas
Newland Capital Advisors
Dated August 21, 1998
Our File Number: I-98-185

Gift Limits

Leslie J. Girard
City of San Diego
Dated August 20, 1998
Our File Number: A-98-170

Leslie J. Girard
City of San Diego
Dated September 3, 1998
Our File Number: A-98-170a

Elizabeth L. Martyn
City of West Covina
Dated August 26, 1998
Our File Number: I-98-182

The Act does not prohibit an individual from serving as a member of the board of directors of a community services district and as a director of a homeowners' association. This letter discusses potential economic interests.

The executive director of a state agency may not make, participate in making, or use his official position to influence a governmental decision involving a grant to a corporation on the New York Stock Exchange in which the executive director has an investment interest of \$10,000 or more.

In response to a request for reconsideration of written advice, this letter reconfirms the advice provided in the *Nagel* Advice Letter, No. A-97-466 and the *Bianchi* Advice Letter, No. I-98-030, that the Commission recommends the position of Deputy Public Defender be included in the county's conflict of interest code.

If CalPERS has determined that certain persons will be designated "consultants" in the agency's conflict of interest code, they must file statements of economic interests (Form 700's), disclosing all information required of their disclosure category unless the executive director of CalPERS determines otherwise.

The receipt of free food and beverages by city officials who use the city's sky box at Qualcomm Stadium are gifts to the city officials. The exceptions in regulations 18944.1 and 18944.2 do not apply. This letter was revised at the Commission's September 3, 1998, meeting. See A-98-170a.

The receipt of free food and beverages by city officials who use the city's sky box at Qualcomm Stadium are gifts to the city officials. Regulations 18944.1 and 18944.2 do not apply.

Multiple-use tickets given to the city by a theater owner are not reportable gifts to the public officials who use them on a first come, first served basis. However, if the tickets are given directly to the public official, or designated for use by a specific official, and their value exceeds \$290, then it is reportable. If the value exceeds \$50, it may need to be disclosed on the official's statement of economic interests.

Charles G. Abdelnour
City of San Diego
Dated September 16, 1998
Our File Number I-98-200

Revolving Door

Patrick Sanger
Hearst Monument Foundation
Dated August 7, 1998
Our File Number: A-98-139a

Statements of Economic Interests

Ron Wilson
City of Dixon
Dated August 6, 1998
Our File Number: A-98-186

Miscellaneous

Nancy Dillon
City of Thousand Oaks
Dated August 3, 1998
Our File Number: I-98-168

Jennifer K. McCain
City of Escondido
Dated August 12, 1998
Our File Number: A-98-172

René Auguste Chouteau
City of Santa Rosa
Dated September 10, 1998
Our File Number: I-98-212

A public-private partnership between the city and the Padres will not affect the city officials' obligations under the Act regarding the receipt of gifts from the Padres.

The post-employment restrictions of the Act do not prevent a former graduate student assistant with the Department of Parks and Recreation from communicating with the department regarding issues involving his new employer.

A candidate for city council must report 50 percent of his spouse's income, since her employer does business in the city and no other exception applies.

This letter discusses whether a proposed local campaign finance and disclosure ordinance conflicts with the Act.

The city may not use any of its funds to provide access to a councilmember's web page if that web page contains any information that supports or advocates the councilmember's upcoming election.

With the inclusion of suggested language, a city ordinance defining "late contribution" and "late formed committee" does not conflict with the Act even though the definitions are more stringent than those contained in the Act, because the ordinance does not prevent compliance with the Act.